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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,282	03/25/2004	David P. Fierek	1191.1101101	2176
28075	7590	10/02/2006	EXAMINER	
CROMPTON, SEAGER & TUFTE, LLC 1221 NICOLLET AVENUE SUITE 800 MINNEAPOLIS, MN 55403-2420			POLLICOFF, STEVEN B	
			ART UNIT	PAPER NUMBER
			3728	

DATE MAILED: 10/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

MIT

<b>Office Action Summary</b>	<b>Application No.</b> 10/811,282	<b>Applicant(s)</b> FIEREK, DAVID P.	
	<b>Examiner</b> Steven B. Pollicoff	<b>Art Unit</b> 3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 July 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some    \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6,9,10,15-19,22,23 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Oas (US Des Pat 227,148).

With respect to claims 1-5,9,16-19 and 22 Oas discloses a bucket tool organizer, comprising: a tool insert (Fig 1 and 2 see container with plurality of holes) situated within the interior of a container having an upper end, an opening near the upper end, a closed lower end, and a side wall (Fig 1 and 2 generally), said tool insert located near the centroid of the container including a holster substantially spanning the opening (see Fig 1) and having a shape configured to tightly receive an object therein, the shape being bounded by first and second side panels, first and second end panels, and a bottom panel. Oas also discloses the holster has a contoured shape corresponding in size and shape to an object to be placed in it. Oas further discloses that the bottom panel of said tool insert includes a necked-down region (Fig 2 generally) and an eyelet disposed through the bottom panel (Fig 1). Oas still further discloses fastening means/clips for releasably securing the tool insert to the upper end of the container (Fig 3).

With respect to claim 6, the tool insert is certainly capable of being removably situated within the interior of the container as can be seen in Fig 3 as it appears the insert is clipped to the bucket's upper rim.

With respect to claims 10 and 23, Oas discloses a bucket mounted tool carrier (Fig 1 and 3 see handle at left and right side of the bucket) adapted to contour about the container.

With respect to claims 15 and 27, while Oas does not expressly disclose that the insert holds a power tool, it does hold tools and therefore, capable of holding power tools.

Claims 1 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Fogelberg (US Pat 5,186,329).

With respect to claim 1, Fogelberg discloses a bucket tool organizer comprising a tool insert (Fogelberg Fig 1, reference number 10) situated within the interior of a container (ref. no. 12) having an upper end, an opening near the upper end, a closed lower end, and a side wall (see Fig 1 generally), said tool insert including a contoured holster (note the various pockets of the tool insert, ref. nos. 32,44 and 46) having a shape configured to tightly receive an object therein (see Fig 3 generally), the shape being bounded by first and second side panels (Fig 1 ref no 18), first and second end panels (Fig 1 ref nos 40 and 62), and a bottom panel (Fig 1 ref no 28).

With respect to claim 8, Fogelberg discloses that the tool insert includes one or more pockets attached to one or both of said first and second side panels (Fig 1 see plurality of pockets next to side panels ref no 18).

Claims 1,2,3,4,6,9,16,17,18 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Fellman (US Pat 5,186,329).

With respect to claims 1,2,3,4,6,9,16,17,18 and 22, Fellman discloses a bucket tool organizer, comprising a tool insert (Fellman Fig 1 ref 10) removably situated within the interior of a container having an upper end, an opening near the upper end, a closed lower end, and a side wall, said tool insert including a contoured holster (14) situated near the centroid of the container substantially spanning the opening having a shape configured to tightly receive an object therein, the shape being bounded by first and second side panels, first and second end panels, and a bottom panel (Fig 1 generally); and fastening means/clips (Fig 5 and 7 ref 18) for releasably securing the tool insert to the upper end of the container. Fellman also discloses that the insert has a necked down region (Fig 2 at ref 15)

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oas (US Des Pat 227,148).

With respect to claims 7 and 20, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the holster of a fabric

or cloth since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

Claims 10-14 and 23-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oas (US Des Pat 227,148) as applied to claim 1 above and further in view of Lindsay (US Pat 4,993,551).

With respect to claims 10,11,23 and 24, Oas discloses all the limitations of the claim except that the bucket mounted tool carrier includes a cylindrically shaped interior panel member configured to drape over said open end and extend into the interior of the container, and an exterior panel member configured to drape over the exterior of the container. However, Lindsay discloses a bucket mounted tool carrier (Lindsay Fig 1 ref 10) including a cylindrically shaped interior panel member including pockets configured to drape over said open end and extend into the interior of the container, and an exterior panel member configured to drape over the exterior of the container (See Fig 1 generally) for the purpose of allowing a user to carry a wide variety of tools that are readily available in an organized fashion (column 1, lines 9-13). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the bucket configuration of Oas to include a bucket mounted tool carrier, as taught by Lindsay for providing additional storage for tools such as scrub brushes or sponges.

With respect to claims 12,13,25 and 26, Lindsay discloses a cylindrically shaped interior panel member (Fig 1 ref no 22) that includes a pleated section (ref no 26)

configured to drape over said open end and extend into the interior of the container and an exterior panel member (ref no 24) that includes a slotted section (ref no 35) configured to drape over the exterior of the container.

With respect to claim 14, Oas discloses that the insert is fixedly secured to the tool carrier (Oas Fig 3).

Claims 16 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fogelberg (US Pat 5,186,329) in view of Fellman (US Pat 6,260,730).

With respect to claims 16 and 21, Fogelberg discloses all the limitations of the claim (see rejection for claims 1 and 8 in view of Fogelberg above), except fastening means for releasably securing the tool insert to the upper end of the container.

However, Fellman discloses a bucket/paint container with an insert/interchangeable liner (Fellman Fig 1) having fastening means for releasably securing the insert to the upper end of the container (Fig 2,5,7; see also Abstract lines 4-7 emphasis on "snap-fittable securement"). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the insert of Fogelman to include an upper portion having fastening means for releasably securing the insert to the upper end of the container, as taught by Fellman, for the purpose of easily and readily replacing inserts (column 2, lines 12-15).

Claims 28-34 and 36-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lindsay (US Pat 4,993,551) in view of Oas (US Des Pat 227,148).

With respect to claims 28,33,40 and 41, Lindsay discloses a bucket tool organizer, comprising: a bucket mounted tool carrier (Lindsay Fig 1 ref 10) adapted to

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contour about a container having an open upper end, a closed lower end, and a side wall (Fig 1 ref 12), said bucket mounted tool carrier including a cylindrically shaped interior panel member including pockets configured to drape over said open end and extend into the interior of the container, and an exterior panel member configured to drape over the exterior of the container (See Fig 1 generally). Lindsay does not disclose a tool insert removably situated within the interior of the container, said tool insert including a contoured holster having a shape configured to tightly receive an object therein, the shape being bounded by first and second side panels, first and second end panels, and a bottom panel; and fastening means for releasably/fixedly securing the tool insert to the upper end of the container and to the bucket mounted tool carrier. However Oas discloses a tool insert removably situated within the interior of a container (Oas Fig 2), said tool insert including a contoured holster (Fig 1) having a shape configured to tightly receive an object therein, the shape being bounded by first and second side panels, first and second end panels, and a bottom panel; and fastening means for releasably securing the tool insert to the upper end of the container (Fig 3). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the bucket configuration of Lindsay to include a tool insert removably situated within the interior of a container, as taught by Oas, for the purpose of providing additional storage for tools (whether it be a power tool or mop).

With respect to claims 29-32, see rejection for claims 3-6 above.

With respect to claim 34, see rejection for claims 7 and 20 above.

With respect to claim 36, see rejection for claim 9 above.



With respect to claims 37 and 38, see rejections for claims 12 and 13 above.

With respect to claim 39, see rejections of claims 15 and 27 above.

Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lindsay (US Pat 4,993,551) in view of Oas (US Des Pat 227,148) as applied to claim 28 and further in view of Marshall (US Pat 6,138,827).

With respect to claim 35, Lindsay as modified above discloses all the limitations of the claim except that the tool insert includes one or more pockets attached to one or both of said first and second side panels. However, Marshall discloses a tool holding attachment device including pockets of varying sizes and configurations for providing a unique combination of large capacity storage, greater ease of transport and user convenience (Marshall column 3, lines 30 and 40-42). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the insert of Lindsay as modified above, to include pockets, as taught by Marshall, for the purpose of providing a more convenient bucket tool organizer for storing using and transporting tools.

### ***Response to Arguments***

Applicant's arguments filed 7/14/06 have been fully considered but they are not persuasive as to the rejection of claims 1 and 8 in view of Fogelberg. With respect to claims 1 and 8, Applicant argues Fogelberg does not disclose a "tool insert including a holster substantially spanning the opening." This is unpersuasive because in as much as Applicant has defined a holster, Fogelberg clearly discloses a holster substantially

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spanning the opening of the container (Fogelberg Fig 3 noting the series of pockets with tools making up the tool insert).

Applicant's arguments with respect to claims 1-41 have been considered but are moot in view of the new ground(s) of rejection.

**Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See updated pto-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven B. Pollicoff whose telephone number is (571)272-7818. The examiner can normally be reached on M-F: 7:30A.M.-4:00P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571)272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SBP 9/27/06

  
JILA M. MOHANDESI  
PRIMARY EXAMINER